

New York State LEGISLATIVE INITIATIVE FUNDING PROGRAM



**Homes and
Community Renewal**

OFFICE OF COMMUNITY RENEWAL

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Legislative Initiative Funding Program Manual

Program Summary

The Legislative Initiative Funding Program (LIF) is funded by the New York State Legislature to support the efforts of the not-for-profit companies, municipalities, and other organizations found eligible by the Legislature.

New York State Homes and Community Renewal's (HCR) Office of Community Renewal (OCR) administers LIF awards relating to housing, community development, community renewal, preservation, or promotional activities such as newsletters or community meetings. LIF funds are generally used for administration, planning, capital programs, and other costs necessary for initiating or continuing specified community-based activities. **All recipients of LIF awards must comply with the procedures set forth in this Manual.**

This Manual provides: 1) general requirements applicable to all awardees; 2) procedures for awards \$14,999 and under; 3) procedures for awards in an amount \$15,000 up to \$49,999; and 4) procedures for awards \$50,000 and over.

Awardees should also refer to their LIF Agreement and direct all questions to the OCR staff before undertaking activities where there are questions or concerns. Failure to follow these instructions in the administration of a LIF award may result in the repayment, recapture, or de-obligation of funds awarded, and may adversely impact the future eligibility of an awardee to receive other program funds awarded by NYS Homes & Community Renewal (HCR).

This Manual establishes procedures for the administration of the LIF. As you review this manual please be reminded that:

- The LIF awards are funded at three levels:
 - under \$14,999;
 - \$15,000 - \$49,999;
 - \$50,000 and over.
- **The required contract documents are different depending on the funding.** Pay careful attention to the contract package requirements for the funding level of the award.
- All awardees will enter into a contract with HCR. The awardee will complete all contract documents and return the contract package to the OCR for execution.

All LIF forms are available for download by award recipients at: <https://hcr.ny.gov/forms-applications#program-specific-forms> Forms are available in PDF only.

Questions regarding the administration of the LIF, please contact the OCR staff at:

Legislative Initiative Funding Program
NYS Homes and Community Renewal, Office of Community Renewal
38-40 State Street, Hampton Plaza, 4th Floor South
Albany, NY 12207
Phone: (518) 474-2057
Email: OCRinfo@nyshcr.org

General Requirements Applicable to All Awardees

The requirements set forth in this section apply to all organizations participating in the LIF. Organizations must meet the requirements of this section and the requirements of the funding level section based on award amount.

1. Notification

Upon receipt of notification of a LIF award from the NYS Senate Finance Committee or the NYS Assembly Ways and Means Committee, the OCR will mail an award notification letter containing the necessary contract package documents to the award recipient.

2. First Time Awardees

Before receiving any LIF funds, an awardee must demonstrate that it exists as a corporation, a municipality, an unincorporated organized group, or other entity found eligible by the Legislature. Incorporated award recipients may be required to provide incorporation documents that demonstrate the award recipient is authorized to perform the proposed activities.

First time award recipients may be required to submit the following information along with their contract package:

- 1) Award recipient's legal status, including Certificate of Incorporation and By-laws;
- 2) List of Board of Directors and their residences, if appropriate;
- 3) Federal Tax Identification Number (FEIN);
- 4) New York State Vendor Identification number; and
- 5) New York State Charities Registration number, if appropriate.

If the award recipient is not incorporated it may be necessary to submit a written explanation describing the organization. The explanation should include:

- 1) How long the organization has been in existence;
- 2) Activities the organization performs; and
- 3) Names and residences of organization officers, staff, and volunteers.

An organization that has not previously contracted with New York State may be required to submit a Substitute Form W-9: Request for Taxpayer Identification Number & Certification along with the other required LIF documents. The Substitute W-9 is available at: http://www.osc.state.ny.us/vendors/forms/ac3237s_fe.pdf

3. Contracting with HCR

All award recipients must enter into a contract with HCR to receive funds. Contract package documents will be sent to the award recipient with the award notification letter. Awardees of will have one (1) year to complete contract activities.

Contract package documents must be completed in full and returned to the OCR for contract execution. Incomplete contract packages or packages with errors will be returned to the award recipient for correction. A copy of the executed contract will be sent to the award recipient.

Contract extensions are not granted for the Legislative Initiative Funding Program.

Electronic versions of contract package documents are available on the HCR website: <https://hcr.ny.gov/forms-applications#program-specific-forms>

4. Charities Registration

All award recipients must comply with the charities registration and filing requirements under Article 7-A of the Executive Law and administered by the NYS Office of the Attorney General Charities Bureau. Award recipients must file for a charities registration number if the organization solicits or receives contributions in excess of \$25,000 annually or pays for fundraising functions regardless of the amount of contributions solicited or received. If the award is for less than \$25,000, the award recipient must apply for an exemption from the Charities Bureau.

Information regarding charities registration is available at the NYS Attorney General's Charities Bureau website <http://www.charitiesnys.com/home.jsp>. Award recipients can find information about the registration process and search for their own organization on the Charities Bureau Registry Search.

5. Grants Gateway

Award recipients that are not-for-profit organizations must be prequalified in the New York State Grants Gateway system prior to receiving a LIF award. An award recipient that does not typically do business with New York State does not need to register with Grants Gateway. For example, a tenant association receiving a one-time LIF award that otherwise does not receive state funding for tenant association activities is NOT required to obtain prequalification in the Grants Gateway.

Effective August 1, 2013, not-for-profit organizations must be prequalified in order to do business with New York State. In order to prequalify, not-for-profit organizations must submit an online Prequalification Application through Grants Gateway. The Prequalification Application is comprised of five components to gauge your organizational structure and the types of services you provide. The required forms and document uploads are all part of the Grants Gateway Document Vault. Resources to complete the application and associated document vault can be found in the Quick Links Section of the Grants Gateway page at <http://grantsreform.ny.gov/>.

Once an organization is prequalified, multiple State agencies will have access to the prequalification materials, eliminating redundant submissions of such information by the vendor.

6. Insurance Requirements

During the term of the contract, the award recipient must maintain insurance with an insurer licensed to transact business in the State of New York. Proof of insurance must be provided upon request to the OCR program staff. Each policy must provide that the insurer will give HCR 30 days' notice of cancellation, non-renewal, or change in coverage.

Liability Insurance

Comprehensive General Liability – a minimum liability of \$500,000 combined single limit (bodily injury and property damage) containing the following coverage:

- Premises and operations;
- Independent contractors;
- Contractual liability;
- Liability for owned, non-owned, and hired vehicles.

Fire and Casualty Insurance

Coverage is required for real and personal property owned by the award recipient.

Workers Compensation and Disability Benefits Insurance

Workers Compensation and Disability insurance must be provided by the employer for all employees performing work related to the award recipient's project. Workers Compensation and Disability is required with the submission of the Vendor Responsibility Form. The Certificate Holder/Name of Entity Requesting Proof of Coverage must state "NYS Homes and Community Renewal, Hampton Plaza, 38-40 State Street, Albany, NY 12207".

Award recipients can get more information on obtaining the Workers Compensation certificate at <http://www.wcb.ny.gov/content/onlineforms/obtainC105.jsp>. Information on the Disability Insurance certificate is available at <http://www.wcb.ny.gov/content/onlineforms/obtainDB120-1.jsp>.

7. Conflict of Interest

The award recipient is responsible for identifying and notifying the OCR in writing of any potential conflict of interest arising under the Conflict of Interest provisions contained in Appendix I of this Manual. All voting members of the Board of Directors and the Executive Director are required to certify compliance with the Conflict of Interest provisions.

The award recipient must certify that all consultants and sub-grantees paid with LIF funds are in compliance with the Conflict-of-Interest provisions and their certifications must be available for inspection by the OCR staff.

If the OCR determines that a conflict of interest may exist, a determination will be requested from the appropriate Legislative finance committee.

8. Work Plans

All award recipients must complete a work plan as part of the contract package. The work plan must describe what will be accomplished with the award funds. A program budget detailing how funds will be spent is part of the work plan and must be completed. The work plan must conform to the description of the award as provided by the NYS Legislature.

Electronic versions of contract package documents, including the work plan can be found on the LIF Forms web page at: <https://hcr.ny.gov/forms-applications#program-specific-forms>

9. Work Plan Modifications

The LIF award is to be used solely for the purpose that is delineated on the Legislative Initiative Form. This description is part of the awardee's work plan.

If, during the term of the contract, it is determined that an award recipient will not be able to complete all contract work plan activities or if the work plan activities change, then a Work Plan Modification must be submitted to the OCR.

The OCR will only approve a Work Plan Modification if the modification supports the Legislative intent of the award. If the proposed modification does not support the Legislative intent of the award the awardee must obtain approval from the appropriate NYS Senate Finance Committee or NYS Assembly Ways and Means Committee. Approval by the appropriate Committee must be obtained prior to submitting the Work Plan Modification to the OCR. Electronic versions of the Work Plan Modification can be found on the HCR website at: <https://hcr.ny.gov/forms-applications#program-specific-forms>

10. LIF Contract Disbursements

Payments are made to award recipients after all contract documents have been reviewed by the OCR staff and the contract is executed by the OCR Deputy Commissioner. Information on payments can be tracked using eSupplier at the NYS Office of the State Comptroller's (OSC) Vendor Management Unit website at:

http://www.osc.state.ny.us/vendor_management/index.htm.

Award recipients that prefer electronic delivery of funds must opt-in by updating their information through the Vendor Portal of the Statewide Financial System at <http://www.sfs.ny.gov/>.

11. Use of Award Funds – Eligible Expenses

MIP funds may be used for, but are not limited to:

- Payment of salaries and wages to employees of the award recipient who are involved in providing LIF funded activities.
- Consultant and professional fees for planning and performing MIP funded activities.
- Costs and expenses directly related to employees, consultants, and professionals planning and performing the LIF funded activities; or
- Community improvement, development or preservation activities and other activities as set forth in the approved Legislative Initiative Form.

The following are examples of expenses ineligible under the LIF:

- Entertainment;
- Contributions to other organizations; and
- Lobbying or political activities.

The list of ineligible expenses is not exhaustive. More information on the eligibility of expenses may be obtained by contacting the OCR program staff.

12. Use of Award Funds – Interest

Any interest earned on LIF funds may be retained by the award recipient but may only be used for activities related to the LIF as stated in the Legislative Initiative Form.

13. Recordkeeping and Retention

All award recipients, or any entity that administers the award on behalf of an award recipient, must establish and maintain complete and accurate general and subsidiary ledgers, records, documents, accounts and other evidence directly pertinent to performance under the LIF contract. Records must be retained for the balance of the calendar year in which they were made and for three (3) additional years thereafter.

The related records and documentation must be maintained in the award recipient's office and must be available for inspection and review by the OCR staff during normal business hours. The OCR reserves the right to request copies of some or all records pertaining to the LIF contract at any time during the records retention period. Records must include, but are not limited to, the following:

- Legislative Initiative Funding Program records such as contract documents; property, personnel, and financial records; consulting agreements or contracts, any documentation of LIF activities.
- Accounting records such as cash receipts, invoices and disbursement journals; general and subsidiary ledgers.
- Timesheet records of all employees and consultants receiving salaries, wages, and compensation in providing LIF activities.

All records must be kept in accordance with generally accepted accounting standards and HCR requirements. All records related to the LIF award are subject to HCR review.

14. Reporting

All awardees are required to submit a final report detailing the use of the LIF funds, activities completed, and goals or objectives achieved.

The reporting forms required for the LIF can be found on the HCR website at: <https://hcr.ny.gov/forms-applications#program-specific-forms>

15. Change of Address or Signatory

The award recipient must notify the OCR of any change of address, signatory or changes to Executive Director and Board President. Notification must be made in writing and must be submitted to the OCR no more than ten (10) calendar days after the changes are made effective.

The award recipient must also contact the Vendor Management Unit at the NYS Office of the State Comptroller (OSC). More information on OSC vendor requirements can be found at <http://www.osc.state.ny.us/vendors/vendorguide/guide.htm>.

16. Contract Default

Award recipients not in compliance with any terms set for in the LIF Contract will be considered in default. Accordingly, the OCR will issue a default letter to the organization with notification to the Senate Finance Committee and/or Assembly Ways and Means Committee as appropriate. The award recipient will have 30 days to address the issues identified in the default letter. If the default is not resolved within 30 days the OCR may withhold payments and may, as appropriate, refer the matter to the NYS Office of the Attorney General (AG).

Requirements Applicable for Awards up to \$14,999

The OCR will mail an award notification letter containing the necessary contract package documents to the award recipient. Along with the notification letter the award recipient will receive:

- 1) Contract Signature Page
- 2) State of New York Agreement
- 3) Appendix A – Standard Clauses for NYS Contracts
- 4) Appendix A1 – Legislative Initiative Funding Program
- 5) Appendix A1-A – Additional Contract Information (completed by OCR)
- 6) Appendix D – Contract Work Plan
- 7) Certification Appendix (under \$50,000)
- 8) Initiative Form
- 9) NYS Claim for Payment Form

The award recipient must complete and notarize the Certification Appendix. The NYS Claim for Payment form must also be completed and signed. The OCR will complete Appendix A1-A; Additional Contract Information. **All agreements are for a period of one (1) year.**

The award recipient must complete and submit the contract package with all required documents to the OCR within 30 calendar days of receipt.

Incomplete packages will not be accepted by the OCR. If the award recipient submits an incomplete package the OCR may issue a default letter identifying the missing or incorrect documents. The recipient will have 30 days to resolve a default. If the default is not resolved within 30 days, the OCR may notify the NYS Senate Finance Committee and/or the NYS Assembly Ways and Means Committee of the recipient's non-compliance with the OCR application process and that the award will not be processed.

Disbursements

The award recipient must submit a NYS Claim for Payment Form to the OCR. A line item budget must be included under Part 6 of the NYS Claim for Payment Form. All documents must be signed by a designated signatory. Disbursements under \$14,999 will be made in one payment to award recipient.

Final Report

Awards up to \$14,999 are required to submit a Final Report to the OCR. The Report is due upon the completion of the activities but no later than 30 days after the end of the contract term. The Final Report must indicate how the funds were spent including a budget-to-actual analysis. The Report must also include program activities completed and goals or objectives accomplished. Copies of documentation supporting the expenses listed in the Final Report (i.e., receipts, cancelled checks, general ledger record) must be kept on file by the award recipient. All supporting documentation is subject to review by the OCR.

Failure to submit the Final Report may result in the OCR issuing a default letter to the recipient. The OCR will also notify the appropriate Legislative Committee of the recipient's failure to comply with program requirements. The OCR may refer the matter to the NYS Office of the Attorney General (AG) if the default is not resolved within 30 days.

Requirements Applicable for Awards \$15,000 - \$49,999

The OCR will mail an award notification letter containing the necessary contract package documents to the award recipient. Along with the notification letter the award recipient will receive:

- 1) Contract Signature Page
- 2) State of New York Agreement
- 3) Appendix A – Standard Clauses for NYS Contracts
- 4) Appendix A1 – Legislative Initiative Funding Program
- 5) Appendix A1-A – Additional Contract Information (completed by OCR)
- 6) Appendix D – Contract Work Plan
- 7) Appendix G – MWBE (\$20,000 and above for service/commodities contracts & construction contracts over \$100,000)
- 8) Certification Appendix (under \$50,000)
- 9) Initiative Form
- 10) NYS Claim for Payment Form
- 11) Charities Registration documents*

*Note: Charities Registration documents include Instructions CHAR500; Registration Statement CHAR410; and Request for Registration Exemption, Schedule E, if award recipient is not in compliance.

The award recipient must complete and notarized the Certification Appendix. The NYS Claim for Payment form must also be completed and signed. The OCR will complete Appendix A1-A; Additional Contract Information. **All agreements are for a period of one (1) year.**

The award recipient must complete and submit the contract package with all required documents to the OCR within 30 calendar days of receipt.

Incomplete packages will not be accepted by the OCR. If the award recipient submits an incomplete package the OCR may issue a default letter identifying the missing or incorrect documents. The recipient will have 30 days to cure a default. If the default is not cured within 30 days, the OCR may notify the NYS Senate Finance Committee and/or the NYS Assembly Ways and Means Committee of the recipient's non-compliance with the OCR application process and that the award will not be processed.

MWBE Requirements for Awards Over \$20,000

The award recipient is required to comply with Articles 15-A and 17-B of the New York State Executive Law. These requirements include equal employment opportunities for minority group members and women ("EEO"), and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs") and Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Recipient's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. The Recipient will promote and assist the participation of certified M/WBEs and SDVOBs as outlined and in accordance with Participation by Minority Group Members, Women and Service-Disabled Veterans with Respect to State Contracts: Requirements and Procedures as Appendix II.

Disbursements

Award recipients may receive disbursements under \$49,999 in one payment. However, the OCR reserves the right to make up to three disbursements: advance, progress, and completion. If more than one disbursement is required, the OCR will notify award recipients of the disbursement schedule. If more than one disbursement is required, the award recipient must submit the first request for disbursement with the completed contract package.

The advance payment of up to 25 percent of the total award amount may be requested. Progress payments may be requested during the contract period as work progresses. The total advance and progress payments may not exceed 90 percent of the total funding award. The final payment is the remaining 10 percent balance of the total award and will be processed only after all activities have been completed and a Final Report has been submitted and approved by the OCR staff.

No more than three (3) payments will be made for awards funded at the \$15,000 - \$49,999 level.

Final Report

Awards of \$15,000 - \$49,999 are required to submit a Final Report to the OCR. The report is due upon the completion of the activities but no later than 30 days after the end of the contract term. The Final Report must indicate how the funds were spent including a budget-to-actual analysis. The Report must also include program activities completed and goals or objectives accomplished. Copies of documentation supporting the expenses listed in the Final Report (i.e., receipts, cancelled checks, general ledger record) must be kept on file by the award recipient. All supporting documentation is subject to review by the OCR.

Failure to submit the Final Report may result in the OCR issuing a default letter to the recipient. The OCR will also notify the appropriate Legislative Committee of the recipient's failure to comply with program requirements. The OCR may refer the matter to the NYS Office of the Attorney General (AG) if the default is not resolved within 30 days.

Requirements Applicable for Awards \$50,000 and Over

The OCR will mail an award notification letter containing the necessary contract package documents to the award recipient. Along with the notification letter the award recipient will receive:

- 1) Contract Signature Page
- 2) State of New York Agreement
- 3) Vendor Responsibility Questionnaire
- 4) Appendix A – Standard Clauses for NYS Contracts
- 5) Appendix A1 – Legislative Initiative Funding
- 6) Appendix A1-A – Additional Contract Information (completed by OCR)
- 7) Appendix A2 – Boundaries
- 8) Appendix B – Budget (taken from Work Plan)
- 9) Appendix C – Payment and Reporting Schedule
- 10) Appendix D – Contract Work Plan
- 11) Appendix G – MWBE (\$20,000 and above for service/commodities contracts & construction contracts over \$100,000)
- 12) Appendix X (left blank)
- 13) Certification Appendix (\$50,000 and above)
- 14) Initiative Form
- 15) NYS Claim for Payment Form
- 16) Workers Compensation & Disability Insurance
- 17) Charities Registration documents*

*Note: Charities Registration documents include Instructions CHAR500; Registration Statement CHAR410; and Request for Registration Exemption, Schedule E, if award recipient is not in compliance.

The award recipient must complete Appendix A2: Boundaries; Appendix B: Budget (as part of the work plan); and Appendix D: Work Plan Activities. The award recipient must complete and have notarized the Contract Signature Page; the Vendor Responsibility Questionnaire; and the Certification Appendix. The NYS Claim for Payment form must also be completed and signed. The OCR will complete Appendix A1-A; Additional Contract Information. **All agreements are for a period of one (1) year.**

The award recipient must complete and submit the contract package with all required documents to the OCR within 30 calendar days of receipt.

Incomplete packages will not be accepted by OCR. If the award recipient submits an incomplete package the OCR may issue a default letter identifying the missing or incorrect documents. The recipient will have 30 days to resolve a default. If a default is not resolved within 30 days, the OCR may notify the NYS Senate Finance Committee and/or the NYS Assembly Ways and Means Committee of the recipient's non-compliance with the OCR application process and that the award will not be processed.

MWBE Requirements for Awards Over \$20,000

If applicable, award recipients are required to comply with Articles 15-A and 17-B of the New York State Executive Law. These requirements include equal employment opportunities for minority group members and women (“EEO”), and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”) and Service-Disabled Veteran-Owned Businesses (“SDVOBs”). LPAs demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. Please visit NYS Empire State Development’s Division of Minority & Women Business Development website for a directory of certified Minority and Women-Owned Businesses: [http:// www.esd.ny.gov/MWBE.html](http://www.esd.ny.gov/MWBE.html)

Award recipients must submit a Contractor Bid Solicitation Plan with the grant agreement. This Plan will identify a minimum of four certified MWBE firms that will be included in the bid solicitation process. Once the contractor/vendor selection process is complete, the award recipient must report to OCR on the use of NYS certified MWBE firms.

Disbursements

There may be up to three disbursements: advance, progress, and completion. Award recipients must submit the first request for disbursement with the completed contract package. The advance payment of up to 30 percent of the total award amount may be requested. Progress payments may be requested during the contract period as work progresses. The total advance and progress payments may not exceed 90 percent of the total funding award. The final payment is the remaining 10 percent balance of the total award and will be processed only after all activities have been completed and a Final Report has been submitted and approved by the OCR staff.

No more than three (3) payments will be made for awards funded at the \$50,000 and above level.

Final Report

Awards of \$50,000, and above are required to submit a Final Report to the OCR. The Report is due upon the completion of the activities but no later than 30 days after the end of the contract term. The Final Report must indicate how the funds were spent including a budget-to-actual analysis. The Report must also include program activities completed and goals or objectives accomplished. Copies of documentation supporting the expenses listed in the final report (i.e., receipts, cancelled checks, general ledger record) must be kept on file by the award recipient. All supporting documentation is subject to review by the OCR.

Failure to submit the Final Report may result in the OCR issuing a default letter to the recipient. The OCR will also notify the appropriate Legislative Committee of the recipient’s failure to comply with program requirements. The OCR may refer the matter to the NYS Office of the Attorney General (AG) if the default is not resolved within 30 days.

Financial Report

Award recipients must retain on file an Agency Audit or Cost Certification. If submitting a Cost Certification, please review the NYS Housing Trust Fund Corporation’s Capital Programs Manual section on Cost Certifications. Agency audits must follow generally accepted audited standards. These documents should be completed 120 days after the end of the agency’s fiscal year.

Appendix I – Conflict of Interest

CONFLICT OF INTEREST

Section 2601.3 Conflict of Interest.

(a) The following are restricted from holding voting Board membership, serving as officers of the Company and/or in staff management positions, except where otherwise stated by statute:

1. State legislators and members of their staff who hold policy making positions;
2. Commissioners and chairpersons of State departments and their deputies and assistants (including members or directors of public authorities, public benefit corporations, Boards, Commissions, and Councils);
3. Staff of the New York State Homes and Community Renewal;
4. Statewide elected officials, including the Governor, Lieutenant Governor, Attorney General and Comptroller, and members of their staff who hold policy making positions;
5. Chief executive officials and members of the legislative bodies of counties having a population of 275,000 or more, within which the project is located, or cities, towns and villages having a population of 20,000 or more, within the county in which the project is located, except where Board membership for such persons is mandated by other relevant Federal or State statutes; and
6. Political party chairpersons, party organization leaders and members of their executive committees in the State, counties having a population of 275,000 or more, within which the project is located, or cities, towns and villages having a population of 20,000 or more, within the county in which the project is located.

(b) The following shall not receive any compensation whatsoever from a recipient organization, directly or indirectly, for services or goods rendered to such organization unless the goods or services are provided pursuant to an award or contract let, unless otherwise required, after a good faith effort to obtain competitive prices is made, the results of which were reported in writing prior to the award of the contract and were approved by New York State Homes and Community Renewal, which approval shall be based on comparison to arm's length transactions and the needs of the project:

1. State legislators and members of their staff who hold policy making positions;
2. Commissioners and chairpersons of State departments and their deputies and assistants (including members or directors of public authorities, public benefit corporations, Boards, Commissions, and Councils);
3. Staff of the New York State Homes and Community Renewal;

4. Statewide elected officials, including the Governor, Lieutenant Governor, Attorney General and Comptroller, and members of their staff who hold policy making positions;
5. Chief executive officials and members of legislative bodies of counties, cities, towns and villages, in which county the project is located;
6. Political party chairmen, party organization leaders and members of their executive committees in the State, counties, cities, towns and villages in which county the project is located;
7. Voting Board members and officers, except for salary payments of officers which shall require the approval of the Commissioner, which approval shall be granted if the duties assigned to the officer correspond to the duties normally assigned to an executive director;
8. Staff members of the recipient organization, except for salary payments;
9. The immediate families of persons in paragraphs (1)-(8) of this subdivision; and
10. Any firm, association, corporation or partnership in which any individual listed in subdivision (a) or (b) of this section holds an interest of ten percent or more.

(c) These provisions apply to all persons and entities whether or not their involvement with, or compensation from, a recipient organization is related to the project funded pursuant to this program.

**Appendix II --PARTICIPATION BY MINORITY GROUP MEMBERS,
WOMEN AND SERVICE DISABLED VETERANS WITH RESPECT TO STATE CONTRACTS:
REQUIREMENTS AND PROCEDURES**

I. General Provisions

A. New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”), and New York State Executive Article 17-B and 9 NYCRR Section 252 (“SDVOB Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$20,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

B. Recipient agrees to fully comply and cooperate in the implementation of New York State Executive Laws Article 15-A and 17-B. These requirements include equal employment opportunities for minority group members and women (“EEO”), and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”) and Service-Disabled Veteran-Owned Businesses (“SDVOBs”). Recipient’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.

C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VI of this Schedule or enforcement proceedings as allowed by this Agreement.

II. Contract Goals

A. For purposes of this Agreement, HCR hereby establishes a goal of, 30% for Minority-Owned Business Enterprises (“MBE”) and Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).

B. For purposes of providing meaningful participation by MWBEs and SDVOBs on this Agreement and achieving the Contract Goals established in Section II-A, Recipient should reference the directory of New York State Certified MBWEs found online, here: <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=4687> and certified SDVOBs found online, here: <https://ogs.ny.gov/Veterans/Docs/CertifiedNYS-SDVOB.pdf>

C. Additionally, Recipient is encouraged to contact the Division of Minority and Woman Business Development’s assigned Compliance Officer to discuss additional methods of maximizing participation by MWBEs on this Agreement.

D. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Recipient must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Agreement. In accordance with section 316-a of Article 15-A and 5 NYCRR §142.13, Recipient acknowledges that if Recipient is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in this Agreement, such a finding constitutes a breach of contract and Recipient shall be liable to HCR for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

A. Recipient agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development. If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

B. Recipient shall comply with the following provisions of Article 15-A:

1. Recipient and its subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

2. The Recipient and its subcontractors shall submit an EEO policy statement (form available) to the HCR with its Bid Solicitation Plan in accordance with the NYS Homes and Community Renewal (HCR)'s Office of Economic Opportunity and Partnership Development procedures. If Recipient or its subcontractors do not have an existing EEO policy statement, a sample form can be found on the HCR website.

3. Recipient's EEO policy statement shall include the following language:

a. The Recipient or its subcontractors will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

b. The Recipient shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

c. The Recipient shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Recipient's obligations herein.

d. The Recipient will include the provisions of sections (a) through (c) of this subsection, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with this Agreement.

4. Recipient or its subcontractors will comply with both Executive Law Article 15A and Executive Law Article 15, including, but not limited to Section 296.

IV. Contractor Bid Solicitation Plan

A. The Recipient represents and warrants that Recipient will submit a Contractor Bid Solicitation Plan either prior to, or within 60 days of work being assigned and described under this Agreement or subsequent work order hereunder.

B. Recipient agrees to use such Contractor Bid Solicitation Plan to outline marketing and outreach efforts planned to expand contracting opportunities for certified MWBEs on this project pursuant to the prescribed MWBE goals set forth in Section II-A of this Appendix.

C. Recipient further agrees that a failure to submit and/or use such Contractor Bid Solicitation Plan shall constitute a material breach of the terms of this Agreement. Upon the occurrence of such a material breach, the HCR shall be entitled to any remedy provided herein, including but not limited to, a finding of Recipient non-responsiveness.

V. Request for Waiver

A. If the Recipient, after making good faith efforts, is unable to comply with the MWBE goals, the Recipient may submit a Request for Waiver documenting good faith efforts by the Recipient to meet such goals. If the documentation included with the waiver request is complete, the Agency(ies) shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

B. If HCR, upon review of the Bid Solicitation Plan, and other supporting documentation including the Bid Solicitation Log and Certification of Good Faith Efforts (Form CONST-4) determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regard to such non-compliance, the Agency(ies) may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Liquidated Damages

In accordance with section 316-a of Article 15-A and 5 NYCRR §142.13, the Recipient acknowledges that if Recipient is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, that such a finding constitutes a breach of Contract and the Agency(ies) may withhold payment from the Recipient. Such liquidated damages shall be calculated as an amount equaling the difference between (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

VII. Reporting

Recipient is required to submit the related Project Detail Sheet and Affirmation of Income Payment to MBE/WBE and/or SDVOB (Form CONST-3) at the time of a related request for reimbursement.

VIII. Forms

The required forms can be found on the HCR website at: <https://hcr.ny.gov/forms-applications#program-specific-forms>